

# COMMITTEE REPORT

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## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 101, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 civil procedure.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 34-13-9 IS ADDED TO THE INDIANA CODE
- 7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2015]:
- 9 **Chapter 9. Religious Freedom Restoration**
- 10 **Sec. 1. This chapter applies to all governmental entity statutes,**
- 11 **ordinances, resolutions, executive or administrative orders,**
- 12 **regulations, customs, and usages regardless of whether they were**
- 13 **enacted, adopted, or initiated before, on, or after July 1, 2015.**
- 14 **Sec. 2. A governmental entity statute, ordinance, resolution,**
- 15 **executive or administrative order, regulation, custom, or usage**
- 16 **may not be construed to be exempt from the application of this**
- 17 **chapter unless a state statute expressly exempts the statute,**
- 18 **ordinance, resolution, executive or administrative order,**
- 19 **regulation, custom, or usage from the application of this chapter by**
- 20 **citation to this chapter.**
- 21 **Sec. 3. (a) The following definitions apply throughout this**
- 22 **section:**
- 23 **(1) "Establishment Clause" refers to the part of the First**
- 24 **Amendment of the Constitution of the United States or the**
- 25 **Constitution of the State of Indiana prohibiting laws**
- 26 **respecting the establishment of religion.**

(2) "Granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

(b) This chapter may not be construed to affect, interpret, or in any way address the Establishment Clause.

(c) Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, does not constitute a violation of this chapter.

Sec. 4. As used in this chapter, "demonstrates" means meets the burdens of going forward with the evidence and of persuasion.

Sec. 5. As used in this chapter, "exercise of religion" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

Sec. 6. As used in this chapter, "governmental entity" includes a branch, department, agency, instrumentality, official, or other individual or entity acting under color of law of any of the following:

(1) State government.

(2) A political subdivision (as defined in IC 36-1-2-13).

(3) An instrumentality of a governmental entity described in subdivision (1) or (2).

Sec. 7. As used in this chapter, "person" includes the following:

(1) An individual.

(2) An organization, a religious society, a church, a body of communicants, or a group organized and operated primarily for religious purposes.

(3) A partnership, a limited liability company, a corporation, a company, a firm, a society, a joint-stock company, an unincorporated association, or another entity that:

(A) may sue and be sued; and

(B) exercises practices that are compelled or limited by a system of religious belief held by:

(i) an individual; or

(ii) the individuals;

who have control and substantial ownership of the entity, regardless of whether the entity is organized and operated for profit or nonprofit purposes.

Sec. 8. (a) Except as provided in subsection (b), a governmental entity may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability.

(b) A governmental entity may substantially burden a person's exercise of religion only if the governmental entity demonstrates that application of the burden to the person:

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

Sec. 9. A person whose exercise of religion is substantially

1     burdened by a violation of this chapter may enforce this chapter  
 2     against a governmental entity in any judicial or administrative  
 3     proceeding by:

- 4         (1) asserting the violation as a claim or defense; and  
 5         (2) if the governmental entity is not a party to the  
 6         proceeding, joining the governmental entity as a party in the  
 7         proceeding;

8     in accordance with the procedural rules applicable to the court or  
 9     other tribunal.

10     Sec. 10. If a court or other tribunal in which a violation of this  
 11     chapter is asserted in conformity with section 9 of this chapter  
 12     determines that:

13         (1) the person's exercise of religion has been substantially  
 14         violated; and

15         (2) the governmental entity imposing the burden has not  
 16         demonstrated that the burden to the person:

17             (A) is in furtherance of a compelling governmental  
 18             interest; and

19             (B) is the least restrictive means of furthering that  
 20             compelling governmental interest;

21     the court or other tribunal shall grant appropriate relief against  
 22     the governmental entity. Relief may include an injunction or  
 23     mandate that prevents, restrains, corrects, or abates the violation  
 24     of this chapter.

(Reference is to SB 101 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

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LONG, Chairperson